

1 COX & MOYER
2 Scott J. Allen (State Bar #178925)
3 703 Market Street, Suite 1800
4 San Francisco, CA 94103
5 Tel: (415) 543-9464
6 Fax: (415) 777-1828

7
8 Attorneys for Plaintiffs
9
10

11 United States District Court for the
12 Eastern District of California
13
14

15 DELMAR CALLAWAY, DAVID DOYLE, JUDY)
16 DOYLE, SHEILA GUERRA, MAYNARD)
17 GAINES, ANTHONY PIERCY, LINDA PIERCY,)
18 CHARLES YARBOROUGH, IMOGENE)
19 ZANDER, FREDDIE McLAURIN, AND ARC)
20 ECOLOGY,)
21 Plaintiffs,)
22)
23 v.)
24)
25 UNITED STATES DEPARTMENT OF THE AIR)
26 FORCE, UNITED STATES DEPARTMENT OF)
27 DEFENSE, and DONALD RUMSFELD IN HIS)
28 OFFICIAL CAPACITY AS UNITED STATES)
SECRETARY OF DEFENSE,)
Defendants)
29
30

No: CIV. S-01-0574 MCE GGH

**STIPULATION AND ORDER OF
DISMISSAL**

31
32 WHEREAS, Plaintiff filed their complaint in this case on April 9, 2001, which asserted
33 three causes of action.

34 WHEREAS, this Court dismissed Plaintiffs' first and second causes of action in an order
35 dated September 6, 2001.

36 WHEREAS, on October 21, 2003, the Court issued a Memorandum and Order which
37 granted in part and denied in part a summary judgment motion filed by the Defendant and denied
38 a cross-motion for summary judgement filed by the Plaintiffs

1 WHEREAS, the Plaintiff's third cause of action remains before the Court.

2 NOW, THEREFORE, pursuant to Federal Rule of Civil Procedure 41(a)(2), the parties,
3 acting by and through the undersigned counsel of record, stipulate as follows:

4 1. The Plaintiffs' Complaint, and each of the claims and causes of action asserted therein,
5 should be dismissed with prejudice.

6 2. Each party shall bear its own fees and costs.

7

8 Dated June 29, 2005

COX & MOYER

9

10

By: _____/s/

11

SCOTT J. ALLEN
Attorneys for Plaintiffs

12

13

KELLY A. JOHNSON
Acting Assistant Attorney General
Environment and Natural Resources Division

14

15

16

Dated: June 29, 2005

_____/s/
BLAKE C. NIELSEN
United States Department of Justice
Environmental & Natural Resources Division
Environmental Defense Section
P.O. Box 23986
Washington, D.C. 20026-3986
(202) 514-1978
FAX (202) 514-8865

17

18

19

20

21

22

23

24

25

26

27

28

JOHN K. VINCENT
United States Attorney

YOSHINORI HIMEL
Assistant United States Attorney
Eastern District of California
501 I Street, Suite 10-100
Sacramento, CA 95814
(916) 554-2700

Attorneys for Defendants

{PROPOSED} ORDER OF DISMISSAL

Pursuant to the stipulation of the parties, this Court hereby orders as follows:

3 1. The Plaintiffs' complaint, and all claims and causes of action asserted therein, is

4 hereby dismissed with prejudice.

5 2. The parties are to bear their own costs and attorneys fees incurred in this litigation.

2. The parties are to bear their own costs and attorneys fees incurred in this litigation.

IT IS SO ORDERED.

Dated: July 1, 2005


MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE